

### REMARKS

The Applicant has carefully reviewed the Office Action of 27 October 2004. The Examiner withdrew both the rejection of claim 11 under 35 U.S.C. §112, second paragraph and the rejection of claim 11 under 35 U.S.C. §102 in view of the claim amendment. However the Examiner performed an additional search of possible compounds with the newly amended claim and identified another compound that the Examiner believes anticipates claim 11.

The Examiner rejected claim 11 under 35 U.S.C. §102(b) as being anticipated by J. Org. Chem. (1980) 45(26), pp. 5328-5333 (CAPLUS abstract), with respect to compound RN 74275-07-3 which disclosed a compound where  $X=N$ ,  $n=1$ ,  $R^1=H$ ,  $R^2=H$ ,  $Z=F$ , one  $R^3=H$  and the other  $R^3=$  phenyl. The Examiner rejected claim 22 as being dependent on a rejected claim, but stated it would be allowable if rewritten in independent form.


The Applicant's inspection of the reference cited by the Examiner discloses a compound which actually has two chiral centers. This occurs when both  $R^3$  moieties and  $Z$  are different. The Applicant states that the claimed genus compound cannot have two chiral centers and be functional in producing enantiomerically pure compounds of the present invention. In view of the foregoing, the Applicant has amended claim 11 and added a limitation so that  $-CR^3_2Z$  cannot be a second chiral center. It is now believed by the Applicant that the amended claim 11 has overcome the outstanding rejection and objection and respectfully requests their withdrawal.

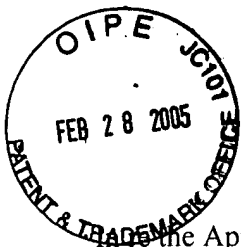
The Applicant believes all rejections have been properly overcome and the claims as amended are in condition for allowance. If there are any questions, the Examiner is invited to call the attorney at 202-638-6666. Entry of the amendment and reconsideration is respectfully requested.

Respectfully submitted,

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Date: February 28, 2005  
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Atty. Dkt. No.: P66645US0

By   
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Registration No. 44,628



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: the Appln. of: David O'Hagan

Serial No.: 09/857,465

Examiner: Brian J. Davis

Filed: June 5, 2001

Group Art Unit: 1621

Title: PROCESS FOR PREPARING CHIRAL COMPOUNDS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an AMENDMENT AND RESPONSE UNDER 37 CFR §1.116 in the captioned patent application.

The fee has been calculated as shown below:

Claims Remaining After Amendment	Present Extra	Small Entity	Total Fees Due
Total	22 - 22 = 0	x \$25	= \$50.00
Indep.	02 - 03 = 0	x \$100	= \$200.00

— First Presentation of  
Multiple Dependent Claims +180 = \$ \$ 360.00  
Total Additional Fee

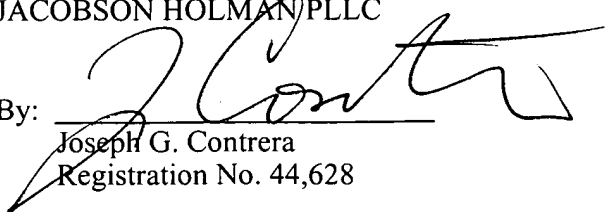
— Please charge Deposit Account No. 06-1358 in the amount of \$ \_\_\_\_\_. A duplicate of this sheet is attached.

☒ A credit card payment in the amount of \$60.00 is attached for:  
Petition for Extension of Time (1x)

The Commissioner is also authorized to charge payment of any other additional fees associated with this communication or credit any overpayment to Deposit Account No. 06-1358.

I.D.: P66645US0  
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